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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,118	07/31/2003	Michael W. Lassota	FET-19	3943

7590 07/08/2005
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EXAMINER

ALEXANDER, REGINALD

ART UNIT PAPER NUMBER

1761

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,118

Applicant(s)

LASSOTA ET AL.

Examiner

Reginald L. Alexander

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45, 91-93 and 97-124 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 101, 111 and 117 is/are allowed.
- 6) ☒ Claim(s) 1-45, 91-93, 97-100, 102, 103, 105-110, 112-116, 118-122 and 124 is/are rejected.
- 7) ☒ Claim(s) 104 and 123 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 36-46 has been renumbered 35-45 and claims 122-125 renumbered 121-124.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-45, 91-93, 97, 100, 106-110, 112-116 and 122 are rejected under 35 U.S.C. 102(e) as being anticipated by Butler et al.

There is disclosed in Butler et al. an operator control panel 1 with a plurality of hidden function selection switches 21, 23, 25, 27, 33, 35, 41 (actually buttons with associated discrete switches behind each) associated with a plurality of different operator selectable functions; means 5, 7 for pre-selecting different modes of operation; a controller (inherent circuitry) with means (LED's) for selectively revealing only pre-selected ones of the hidden function switches to an operator in accordance with the different pre-selected modes of operation; a message display associated with the switches; a partially translucent panel (col. 3, lines 43-50) through which the hidden switches cannot be seen.

Applicants recitation of a beverage brewer or food processing apparatus in the claims is without structure to support such a use for the device. Without any defined structure to limit the device to beverage brewing or food processing the claims read on a display and display control for any type of device.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 102, 103, 105 and 124 are rejected under 35 U.S.C. 102(b) as being anticipated by Warne.

There is disclosed in Warne a brewing apparatus, comprising: a heating element 44; a plurality of valves 64, 70, 82; a manual control system 42 comprising: means 104, 106, 108, 110, 112, 114 for selectively operating the apparatus in accordance with a "normal" operations mode in which the heating element and the plurality of valves may

be operated in accordance with a normal operation program; means 104, 106, 108, 110, 112, 114 (same as above but used with secondary functions) for selectively operating the apparatus in a "program mode" in which operational parameters are changed (col. 13); a "self-diagnostic mode" (col. 13, lines 41-43); and a demonstration mode in which different water delivery pulses may be used; and a display panel 100.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 98 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler et al. in view of Ward et al.

Ward discloses that it is old and well known to provide Braille or an embossment on a switch (col. 2, lines 49-55). It would have been obvious to one skilled in the art to provide the switches of Butler with a Braille code as taught by Ward, in order to allow individuals with disabilities to use the device.

Claims 118-121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler et al. in view of Yoshimura et al.

Yoshimura discloses that it is old and well known to have an LED message display 12 which is separate from the switches. It would have been obvious to one skilled in the art to provide the apparatus of Butler with an LED display as taught by Yoshimura, in order to provide messages to the user in a single distinct location.

Allowable Subject Matter

Claims 101, 111 and 117 are allowed.

Claims 104 and 123 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

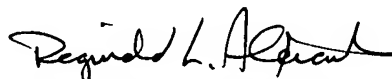
It should be noted again that while applicant has recited the device to be a brewer with brewing functions, there is no structure in the claims to limit the device to such.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
July 7, 2005


Reginald L. Alexander
Primary Examiner
Art Unit 1761